

MARICOPA COUNTY BOARD OF SUPERVISORS MINUTE BOOK

**CSA MEETING
February 16, 2006**

The Maricopa County Board of Supervisors convened at 10:40 a.m., February 16, 2006, to attend the County Supervisors Association and Legislative Policy Committee Board of Directors meeting, held at 1905 W. Washington, Phoenix, AZ, with the following Maricopa County Supervisors present: Don Stapley, Chairman, District 2; Andrew Kunasek, District 3, and Mary Rose Wilcox, District 5. Absent: Fulton Brock, Vice Chairman, District 1. Also present: Diane Sikokis, Rick Bohan, James Candland, Jim Bloom and Scott Isham.

INVOCATION

Supervisor David Tenney led the group in the invocation. He reported on Supervisor David Brown's improving physical condition following his release from the Arizona Heart Hospital and asked all to keep him in their thoughts.

APPROVAL OF MINUTES

Supervisor David Tenney moved to approve the minutes of the January 26, 2006 CSA Board of Directors and Legislative Policy Committee meeting. Supervisor Richard Lunt seconded the motion and the motion passed unanimously. (ADM604)

LEGISLATIVE POLICY COMMITTEE

President Kunasek requested voting be limited to the LPC members, but discussion could be done by all supervisors present. Craig Sullivan presented an update on fiscal priorities. The legislature has been moving along rapidly, trying to adhere to the timeline originally set. Tomorrow would be the last day to hear bills in the house of origin, with a few exceptions. CSA has been pleased with discussions on HURF. CSA continues to work with legislators on Restoration to Competency and the DUC Pool.

There are two ALTCS bills in the process. House Bill 2573 is the full county coalition bill sponsored by Representative Chase, which provides relief to every county currently over the statewide average per capita expenditure on ALTCS. Currently, there are seven counties it would benefit. The bill unanimously moved out of the House Health committee a week ago going to the Appropriations Committee. Many counties testified in support of the bill.

The Senate bill, sponsored by Senator Flake, provides similar relief as the House bill, but reduces it to counties under 100,000 in population. The two counties to benefit are Santa Cruz and Gila. Senator Flake supports the full county bill and his desire is to work toward that end. Due to his concern about his own constituents he dropped S.B. 1299. CSA maintains constant communication with Senator Flake and met with him on specific strategy to get his bill heard in Appropriations next week.

Appropriations Chairman Boone is concerned about the size of the fiscal request (approximately \$12 million) in H.B. 2573. The legislators have asked the counties to consider a Plan B and CSA is seeking feedback on that. Craig Sullivan offered a phased approach (50 percent relief this year, phasing in the full relief next year), which would reduce the fiscal impact by \$6 million this fiscal year. He said it would send a strong signal that counties are unified in terms of treating counties in similar circumstances similarly and it could help move the bill forward.

Supervisor Gene Fisher commented that the phase-in approach is an excellent idea. He said, "If we believe 50 percent is the number we'll reach, then it's a great idea, but if it's possible we would end up at a lower percentage, then we should start higher." Craig Sullivan agreed and said that CSA had originally

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thought of a 75-25 approach, until Appropriations Vice Chair Representative Burns provided feedback on a three-year phase-in. Supervisor David Snider supported Supervisor Fisher's comments and believed, "starting low gets us low, and starting high and ratcheting down to a negotiated figure is better." Supervisor Snider moved to authorize CSA to negotiate a phased-in approach on H.B. 2573 or other related bills. Supervisor Shirley Dawson seconded the motion and the motion passed.

Mr. Madeksza provided an update on the other legislative priority bills listed on the agenda. Mr. Madeksza advised that priority bills are moving forward with one exception. H.B. 2235, Speed Limits; Primitive Roads, was not heard in House Transportation and did not become one of the chairman's priorities to push forward.

President Kunasek moved toward policy discussion on the agenda.

Amendment language for both H.B. 2432 and H.B. 2433, as provided with the agenda packet. Both bills were sponsored by Representative O'Halleran and address long-term debt obligations and the excise tax. After speaking with the bill sponsor, draft language was provided to address new debt obligation only, the requirement that the hearings be an existing hearing, not a special hearing, and that the decision by the board of supervisors occur after public testimony and not have to be based on public testimony. Supervisor Fisher moved to oppose H.B. 2433 in that it is an example of restricting the county's ability to use revenue to fulfill the requirement needs that are currently within the county budget. Supervisor Lenore Stuart seconded the motion.

Supervisor Fisher read section D of the amendment language provided on H.B. 2433 for A.R.S. Sec. 42-6103. He noted that his county board currently doesn't adopt a plan, but it is currently included in their budget to be used for countywide services. He said as far as he is concerned those funds are a part of the budget. Supervisor Snider expressed concern over thwarting this bill if it is moderately benign since Representative O'Halleran is carrying other bills that help counties. Supervisor Fisher asked Mr. Madeksza what was the goal of this bill. Mr. Madeksza replied it is to make sure that when counties have a revenue stream that is dedicated to certain things to prevent that county from arbitrarily changing the makeup of that dedication without a public hearing.

Supervisor Fisher said it is simply not good county government to be fixed to a certain plan and be restricted. Mr. Madeksza noted the amendment was created because CSA was opposing the underlying bills and Representative O'Halleran expressed a willingness to work with our organization. Mr. Madeksza said he has been straightforward with Representative O'Halleran in that these amendments do not guarantee support of the bills, but it became clear that even if CSA opposed the bills he would not drop them. Mr. Madeksza felt it would be preferable to have the amended versions than the unamended versions. He said Representative O'Halleran is aware of today's meeting and although he is aware the answer might be negative he would like the county's support.

Supervisor Fisher noted that when he first became interested in this issue one of the questions he asked CSA was to research whether the county that allegedly broke their agreement actually did break their agreement. Mr. Madeksza advised that was not done, but there was two sides to the story. Supervisor Fisher stated he would be interested in knowing the story. President Kunasek noted it was a general excise tax that all counties except Maricopa County can use as they see fit. He questioned if Pima County had excise tax authority. Martin Willett replied they did not and they had no plans for it. President Kunasek questioned how this was different from the county levying a property tax and in the budget cycle each year the county prioritizes and allocates those resources as seen fit as a policymaking body.

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Supervisor Fisher said the half cent sales tax had to be implemented by unanimous vote of the board of supervisors and the county had a plan on how they would use those funds. He said that if the county had a five-year plan, they adhered to that plan during that time period. He suggested that if a citizen believed the county did something other than the scheduled plan, that is not necessarily what happened. He said in La Paz County they have a unanimous vote of the board, the board declares whether it is for a defined period or whether it would be in perpetuity. He said it is reasonable to assume that if it's stated for in perpetuity it would be used for a variety of things. He asked if other counties differed from that format.

President Kunasek questioned if the bill's requirements were specifically addressed when a county unanimously adopted the tax in perpetuity or only when a county adopted a five-year plan for a specific project. Mr. Madeksza replied that issue was not addressed. He added that although he did not conduct the requested research, he did speak to the county in question and the general feeling from the county was that they did exactly what they were supposed to do in that they issued a notice for the meeting, held a meeting, had a hearing, and, therefore, the process was followed.

Supervisor Liz Archuleta stated she felt that if it is bad policy, then it should be opposed; however, if it is bad but tolerable, it should be discussed as such in order to keep a good relationship with Representative O'Halleran. She added that on face value she would oppose it. Supervisor Jerry Brownlow said he doesn't see it as eroding the authority of the board, but rather that another public hearing is being mandated. He said he would support it. Craig Sullivan advised that CSA would continue to notify the sponsor of concerns and the issue would be brought back to the next LPC meeting after giving supervisors a chance to review it within their own county.

Supervisor Fisher asked the board to look at the sentence struck from section C of the amendment language. The stricken sentence read, "The County shall use these revenues to support and enhance countywide services." He stated it shows they are trying to restrict counties. Supervisor Matt Ryan stated that Representative O'Halleran did need to hear the counties' concerns that this is not good legislation.

Supervisor Carol Springer advised that this legislation stemmed from a recent vote of an unhappy minority member of her board. She advised that the half cent sales tax was enacted very broadly and at the same time or immediately afterward a certain portion was designated to roads; in subsequent years, the percentage allocated to roads was reduced twice. This past year, it was reduced to 50-50 in order to be able to put more into a capital improvements fund for building. One supervisor did not agree with that decision. In response to President Kunasek's request to speak to Representative O'Halleran, Supervisor Springer said she would prefer to stay neutral and not take a position on the bill.

Supervisor Fisher withdrew his motion and Supervisor Stuart withdrew her second. President Kunasek reiterated no action was taken on H.B. 2432 and 2433 and CSA would continue to work on both bills.

H.B. 2575 County Supervisors; Membership; Number. Mr. Madeksza advised the bill requires a county to move from a three to five member board of supervisors if at any time during the first seven years following the decennial census the DES POPTAC numbers exceed 150,000 persons for the first time, then the county shall contract with the U.S. Bureau of Census to conduct a special census of the population of the county. If the population of the county according to the special census is 200,000 or more, the board of supervisors shall reapportion the county into five supervisory districts. CSA expressed concern with the sponsor, and then to the committee, regarding the cost of conducting a census; the fact that the Department of Justice probably would not accept a special census for voting rights act enforcement; and that there was an existing process in place to allow a board of supervisors to increase from three to five members.

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The response from the sponsor was an amendment, which has not been reviewed by CSA, which said the counties no longer have to sponsor a special census, but rather use the DES POPTAC numbers for the purpose of redistricting. Mr. Madeksza expressed to the sponsor that that made the position more powerful and the Department of Justice probably would not accept DES numbers for voting rights act enforcement. The bill moved out of committee. The bill sponsor is Representative Chase, who is also the sponsor of the ALTCS bill. She has expressed an interest in working with CSA to help alleviate our concerns.

Supervisor Greg Ferguson advised that the City of Yuma just completed a special census at a cost of \$1 million and it resulted in less population than they had in 2000. Supervisor Pete Byers asked if a three-member board county was already over a population of 150,000 in 2000, would the county have to do another census. Mr. Madeksza replied that was unclear. He added that it doesn't appear to hinge on the census numbers, but rather the POPTAC numbers. Supervisor Snider stated he had a letter from the U.S. Department of Commerce and the Census Bureau that it would cost \$1.6 million for Pinal County to do a special census. In looking at the triggers in this bill, two counties would be immediately affected and another four counties would be affected after the 2010 census.

In response to Supervisor Russell McCloud's question, Craig Sullivan replied this bill was generated in response to a particular instance in Pinal County, as indicated by Supervisor Snider, but results in implications to other counties. After meeting with Representative Chase yesterday, Craig Sullivan said CSA's opposition to this bill does not impact Representative Chase's collaboration on ALTCS. Supervisor Fisher suggested opposing the bill on a fiscal basis. President Kunasek noted CSA would continue to oppose it.

H.B. 2819 Adult Probation; County Responsibility. The bill removes from session law Maricopa County's authority to operate their adult probation and makes it permanent. It does provide an option for Maricopa County to additionally take on their juvenile probation program, allowing for reductions in AHCCCS administrative contributions, AHCCCS acute care contributions, and ALTCS contributions. It also increases the probation surcharge from \$5 to \$10 for Maricopa County. It passed House Judiciary this morning, wherein the bill sponsor agreed to an amendment to have this bill apply only to Maricopa County. President Kunasek stated that over time Maricopa County would like to take more control over some of these services and have a voice in how they are provided. He said it appears the probation morale has improved drastically since coming under Maricopa County's authority.

S.B. 1219 Personal ID Information; Recorded Docs. Mr. Madeksza advised draft amendment language that was provided in the agenda packet was offered in the Government committee as a strike everything amendment. He noted section J on page two of the strike everything amendment read, "A county agency is not subject to civil liability for any action relating information recorded . . ."

S.B. 1392 Public Health Services District. Mr. Madeksza advised that counties can currently establish a public health services district by going to the voters or by a unanimous vote of the board of supervisors. This bill, sponsored by Senator Martin, removes the ability for counties to establish a health district by unanimous vote of the board of supervisors. CSA is currently neutral on the bill. It appears ATRA brought the bill to the sponsor for the reason they believe this is the last special taxing district that can be formed without going to the vote of the people. Supervisor Fisher stated this bill could have resulted from when La Paz County implemented the health services district and took money to help the hospital district receive funds until the hospital district ballot could be taken to the voters for approval of a property tax. ATRA didn't approve and got an attorney involved. The attorney said it probably shouldn't have been

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done that way, but what was done was legal. La Paz County had set it up so that the tax would sunset as soon as they started receiving the property tax or if the ballot had failed.

Supervisor Don Stapley said he believes it was aimed at Maricopa County and would like to see it die, because it takes local authority away from the county. Supervisor Ryan agreed with Supervisor Stapley. Supervisor Stuart stated the health district in Yuma County has been very positive for Yuma County. Supervisor Ferguson stated that if it is done by a vote of the people, a 50 percent maintenance of effort of the general fund expenditures in the prior year must be maintained; if it's done by the board of supervisors, it's a 60 percent maintenance of effort. Supervisor Byers moved to oppose S.B. 1392 with a second by Supervisor Ryan. Mr. Madeksza asked if there was any county thinking of implementing a public health services district in the near future. He said he is aware Coconino County is conducting a feasibility study on it. The motion passed.

H.B. 2555 Strike Everything Amendment; County Superintendence of Schools. Jessica advised that the Strike Everything Amendment allows an option for counties to participate. She has spoken with Maricopa County and other counties on whether that option should remain in the amendment. Supervisor Stapley said that if a county school superintendent is doing a terrific job with an accommodation school, it is not their intent to interfere and would acquiesce to any amendment to remove a county from this legislation. Maricopa County is dealing with a specific major problem with the accommodation school district wherein its school superintendent ran up incredible costs.

Supervisor Stapley said the Speaker of the House asked Maricopa County if it wanted him to run a bill. Representative Anderson, who chairs the K-12 Education committee, offered to sponsor the Strike Everything bill. He said the board of supervisors has a legal responsibility to pay the bills for these districts if the school superintendent chooses to spend the money. The school superintendent is the governing board with no checks and balances. Maricopa County is looking at \$5 million to \$10 million over the next 12 months in cost overruns, over and above federal and state money coming in. He said their school superintendent refuses to allow any information to be given to the board of supervisors and the board was put in the position of having to pay the bills. He said the bill is written so that the board would have to work with the school superintendent in the same manner it must work with the other departments, such as the sheriffs department. He said that because the board is ultimately legally responsible to pay the bills, it should have some authority to manage it.

Supervisor Palmer said he appreciates Maricopa County's dilemma and would support them in this, adding that it needs to be certain that the option provision is secure or that we identify specific counties or population thresholds so as not to force a county into it. He said Graham County's accommodation school is owned by four of the five small rural school districts. The school superintendent oversees it, but there is an oversight committee. Supervisor Manny Ruiz stated his county supports Maricopa County 100 percent because they have similar issues.

Supervisor McCloud appreciated Maricopa County's position but wouldn't want his county placed in the position of having to run a school. He said if there was a conflict between the board of supervisors and the school superintendent, there is nothing that requires the school superintendent to accept a written contract that would require the board of supervisors to run the school. He suggested adding an amendment to allow the board of supervisors to appoint a school board to run that school. President Kunasek said he believes the board would have the ability to delegate to that superintendent the same functions, but it provides a level of control. Currently, the budget for the accommodation school is not seen nor approved by the board. Supervisor Searle commented the concern is the ability for the school

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superintendent to decline that responsibility. President Kunasek said he reads the legislation that if the school superintendent wants to have an accommodation school she is required to accept the oversight.

Supervisor Dawson said Gila County's school superintendent recently created an accommodation school. She said it is not true there is education available to every child. She noted that some students are expelled from school. She said her school superintendent have taken on the responsibility of the throw-away kids. Supervisor Dawson said she does not want the board in the position of running a school district. She said she believes the school superintendent needs a board, will organize one, but it needs careful monitoring of how the funds are regulated. She is not opposed to the bill, but believes Graham County has for years operated accommodation schools for handicapped children, and now Gila County has an accommodation school for those children not welcome in public or private schools. She said there is a necessity for those schools but the board of supervisors shouldn't be in the position of a school district governing board.

Supervisor Stapley stated the Maricopa County board of supervisors doesn't want to be a school district governing board but it was forced to take action because the school superintendent spent money she didn't have. There was a loophole that allowed her to go to the county treasurer with warrants to draw down money. The board of supervisors is stuck having to pay back the treasurer. He said this bill is the only way to clarify the law when the responsibility lies with the board of supervisors to pay the bills. The bill would require the school superintendent to work with the board of supervisors, submit a budget, and get the board's approval on the budget. He sought the other counties' support of Maricopa County in this effort. He said they would be happy to amend the bill to only have it affect Maricopa County, but they needed the support.

Supervisor Fisher agreed with having the option in as stated previously so that it doesn't mandate other counties, but for it to allow the option should the situation occur. Supervisor Ryan said his county also has an accommodation school. They currently have a good relationship with their school superintendent, but it was not so with the previous superintendent. They want to be engaged in this discussion but since his board hasn't discussed it fully to take a position he is unable to do so at this time.

Supervisor Ruiz said he has been both a school district board member for 14 years and a county supervisor for five years and he believes in a fiduciary responsibility to take care of the citizens' money. He said, "If something is occurring that we have no control over, but are responsible for, it's wise to support Supervisor Stapley's proposal." He added that it could be amended later. Supervisor Palmer moved to support Maricopa County in H.B. 2555 and instruct staff to safeguard that option provision. Supervisor Ruiz seconded the motion and the motion passed. Coconino County did not vote, preferring to monitor it.

H.B. 2685 / S.B. 1289 / S.B. 1478 Truth in Taxation. Craig Sullivan stated the Senate bill, sponsored by Senator Martin, would mandate counties to adopt a TNT rate for the next fiscal year and any county revenues in excess of the TNT rate in subsequent years would require a public vote every two-years. The other part of the bill reduces the county education rate, which is a property tax levied by the state through the county. CSA has taken a position to oppose the bill based on concerns with the TNT provisions. Senator Martin's bill didn't make it out of third read in the Senate last week, due to Senators Flake and Tibshraeny who opposed the bill. The bill will be up for reconsideration and CSA will continue to lobby legislators to oppose it. Senators Tibshraeny and Flake received e-mails thanking them for their stand against the bill.

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Representative Huffman has a similar bill in the House that would also require the mandated TNT rate, but would allow for a 2 percent inflation going forward. The bill will be in the House Committee of the Whole today and then on to third read next week. It is important to continue to work with House members to make sure they understand what it would do to county operations. The other Senate bill by Senator Bee strictly mandates the TNT rate going forward and would require counties to have a vote of the people to ever exceed it. Most of the focus has been on the Huffman and Martin bills. Craig Sullivan advised that there is another bill in the Senate that has a combination of property tax relief to the county education rate reduction and income tax relief; it does not contain a truth in taxation provision. From the counties' standpoint, that bill is positive, however, the legislature will need to decide how to provide for tax relief going forward and in what magnitude.

Supervisor Snider asked for an update on H.C.R. 2045 State Trust Land Reform. Craig Sullivan advised that a comparison document was provided in the agenda packet to provide an opportunity for supervisors to review it.

AACo's Legislative Agenda. Craig Sullivan said if CSA were to adopt these proposals, CSA would assist AACo where necessary. Supervisor J. R. DeSpain explained a few of the proposals. He said as of last week the assessors' H.B. 2349 was not doing well and would need the support of supervisors to move it forward. He said if the assessor doesn't fund it through a special line item, then the board of supervisors will end up funding it through the general fund. He said the election bills seem to be moving forward and noted that H.B. 2234 overtime compensation law enforcement seems to be having the most trouble.

Supervisor Ruiz questioned a typo on the date in the description of H.B. 2349, which was corrected to be 2011. In response to President Kunasek's question on the constable bill, Supervisor DeSpain said there is still authority provided in the bill for the board of supervisors to set the salaries for those population precincts that fall within that. In response to Supervisor Searle's question on S.B. 1022, Supervisor DeSpain replied the amount listed was chosen to set a standard for stability since most counties hold more than \$50 million. Supervisor Archuleta moved to support AACo's legislative priorities. Supervisor McCloud seconded the motion and the motion passed.

Craig Sullivan provided updates on recent legislation discussed. CSA is working with a group of private and public sector stakeholders on eminent domain to find a solution to protect private property rights as well as continue to give local governments the tools needed. Craig Sullivan advised leadership is open to having counties at the table to discuss it. At the last meeting, CSA discussed supporting additional monies for probation officers, but had concerns on how the dollars would be allocated. CSA has not yet received information from the Administrative Office of the Courts (AOC), but has expressed concern on the low level of commitment the state has provided for probation officers.

Craig Sullivan stated that H.B. 2080 planning and zoning; utility corridors was discussed at the previous meeting and would provide new requirements into planning statutes for counties. An amendment is expected on the floor today that migrates toward addressing county concerns. CSA has not seen it but will continue to follow the progress. Supervisor Stuart asked CSA to continue to seek the information from the AOC on the spending plan.

BOARD CONSIDERATION OF LPC REPORT

Supervisor Palmer moved to adopt the LPC recommendations. Supervisor Byers seconded the motion and the motion passed.

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NATIONAL COUNTY GOVERNMENT WEEK (APRIL 23-29, 2006)

Craig Sullivan noted that CSA collaborates with NACo to get some press for county activities for the National County Government Week. CSA is seeking a proclamation from the Governor promoting the important services counties provide. A copy was provided in the agenda packet.

EXECUTIVE DIRECTOR REPORT

Craig Sullivan noted that CSA received several nominations for the NACo County Leadership Institute, which is a great opportunity for supervisors to hone their skills. Supervisors Stapley and Archuleta have participated in the past. A list of the nominees was included in the agenda packet and has been forward to NACo. Those nominees will be contacted by NACo and NACo will make the ultimate selection. If a participant is chosen from Arizona, CSA will contribute half the program tuition.

The NACo Legislative Conference will be March 4-8 in Washington, D.C. CSA and AACo will be cosponsoring a breakfast meeting with our delegation on March 8.

Craig Sullivan asked supervisors to consider a location for the CSA Legislative Summit. Last year's summit was at the Hon-Dah Resort. An option is to return to the Hon-Dah Resort, but CSA wanted to provide counties the opportunity to consider hosting the Summit. Craig Sullivan asked for supervisors to think about how it could be improved as an education forum to be better engaged with the legislature.

COUNTY CAUCUS REPORTS

There was no report from the Large County Caucus. Supervisor Archuleta stated the Medium County Caucus has scheduled a breakfast meeting next month for the medium county legislators. It will be held at the State Capitol at 8:00 a.m. The Medium County Caucus plans for a half hour educational session to be conducted at every meeting. In May there will be an educational session on health districts. Supervisor Jesse Thompson stated the Small County Caucus was hosted by Apache County last evening.

OTHER BUSINESS AND NEXT MEETING DATE AND TIME

President Kunasek stated the next board meeting will be held on March 16, 2006 as a joint meeting with the LPC. The meeting will commence at 10:30 a.m. The Legislative Policy Committee will hold a telephonic meeting every Friday when it is not a board meeting week. The first telephonic meeting will be held on Friday, February 24, at 10:00 a.m.

ADJOURN

There being no further business, President Kunasek adjourned the CSA board/LPC meeting at 12:17 p.m.

Don Stapley, Chairman of the Board

ATTEST:

Fran McCarroll, Clerk of the Board